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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 8, 2001

Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 99-68, Impact of Proposed Transitional Phase-Out of Reciprocal Compensation on e.spire Communications, Inc.

Dear Ms. Attwood:

As a facilities-based competitive local exchange carrier with a widespread presence throughout the country, e.spire Communications, Inc. ("e.spire") is critically concerned about the recent draft proposal to phase out reciprocal compensation. e.spire urges the Commission to act swiftly to remove existing uncertainty on this issue, and to do so in a manner that will not unduly disrupt the billions of dollars invested in the CLEC industry based upon CLEC business plans which were conceived in reliance upon the firm, long-term, federal guarantees of the Telecommunications Act of 1996. e.spire fully endorses the alternative proposal proffered by ALTS and CompTel in their December 18th *ex parte* filing in this docket, and respectfully requests that the Commission immediately adopt that proposal.

e.spire competes for revenue by offering a wide variety of products. e.spire has three major lines of business: a construction company that has signed over $100M in contracts to construct fiber optic networks for other companies; a data company offering access to over 350 data points-of-presence across the country; and a switched services company, offering a full line of integrated voice and data products to thousands of customers nationwide. While reciprocal compensation is an important revenue source for e.spire, and e.spire must be able to recover its local switching costs in order to compete, it represented only 16% of e.spire's total revenues in 1999.

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Having said that, it is critical that any downward transition in reciprocal compensation rates be a gradual one in order to provide start-up CLECs such as e.spire an opportunity to adjust their business plans accordingly. The currently-proposed Commission transition plan simply does not provide sufficient transition time. e.spire has reviewed the current traffic imbalances on its 28 Lucent 5ESS switches deployed throughout the country. In the first year of the Commission's proposed transition, 19 of e.spire's 28 switches would have greater than the proposed 12:1 imbalance. In the second year, again, 19 of e.spire's 28 switches would exceed the proposed 8:1 imbalance. And in the third year, 22 of e.spire's 28 switches would exceed the proposed 4:1 imbalance. Accordingly, for e.spire, the proposed transition is not a transition at all: in fact, the vast majority of e.spire's switches that reflect an imbalance of traffic would become exposed to bill and keep in the very first year of the transition plan.

e.spire strongly urges the Commission not to penalize CLECs with traffic imbalances by permitting states to adopt bill-and-keep on out-of-balance minutes. e.spire has competed fairly in the marketplace for its Internet Service Provider ("ISP") and other customers. While e.spire has a widely varied customer base, some of those hard-earned customers are ISPs. CLECs cannot afford to lose these customers, and the rules of the road should not be changed half-way through the game with respect to these valued customers. Rewriting the rules at this time in a manner that could encourage current CLEC customers to migrate away from CLECs and back to the incumbent local exchange companies ("ILECs") is certainly inconsistent with the pro-competitive goals of the Telecom Act.

Furthermore, certain ILECs have themselves perpetuated higher reciprocal compensation rates by obstinately refusing to agree to moderate cost-based rates with e.spire, holding out instead for rates that are significantly below cost ("cost" being the cost-based rates as determined by the state commissions). By way of example, e.spire is currently billing BellSouth, and receiving full payment, on all minutes of use at 0.175 cents per minute throughout BellSouth's region. All last year, e.spire billed BellSouth -- and BellSouth paid e.spire -- at 0.2 cents per minute. By contrast, other ILECs, including Southwestern Bell ("SWBT") and Qwest, when offered the same rates early last year, refused to settle for those rates, insisting on rates that dropped below 0.1 cents per minute (in contrast to their own switched access rates which, even with recent reductions, are more than seven (7) times higher at 0.7 cents per minute). Accordingly, during the same period, e.spire continued to bill both SWBT and Qwest -- owing entirely to their own intransigence -- at rates that ranged anywhere from 0.5 to 1.0 cents per minute. In sum, where ILECs have been reasonable, they have been able to eliminate above-cost reciprocal compensation rates altogether, and the parties have settled into an amicable CLEC-billing and ILEC-full payment routine.

Given that reciprocal compensation rates are naturally trending to cost-based levels, and both CLECs and ILECs have proven that they can live with such rates, the Commission should adopt a plan along the lines of the ALTS/CompTel proposal of December 18th. Cost-based rates are not only consistent with the Telecom Act, but also with years of Commission precedent pre-dating the Act. As ALTS and CompTel have stated, CLECs propose only limited changes to the Commission's current proposal because we believe prompt action is imperative.

Thank you for your consideration of this vital issue.

Sincerely,

James C. Falvey
Senior Vice President
Regulatory Affairs

cc: Glenn Reynolds
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